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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/010,719

11/08/2001

Weidong Mao

TVW/APP32US

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10/18/2006

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EXAMINER

JONES III, CLYDE H

ART UNIT

PAPER NUMBER

2623

DATE MAILED: 10/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/010,719	Applicant(s) MAO ET AL.	
	Examiner Clyde H. Jones III	Art Unit 2623	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 26 September 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
 b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) ☐ They raise the issue of new matter (see NOTE below);
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
 5. ☐ Applicant's reply has overcome the following rejection(s): _____.
 6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
 7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
 The status of the claim(s) is (or will be) as follows:
 Claim(s) allowed: _____.
 Claim(s) objected to: _____.
 Claim(s) rejected: 1-5, 11, 13, 14, 18-24 and 31-42.
 Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
 12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
 13. ☐ Other: _____.



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Continuation of 11. does NOT place the application in condition for allowance because: Regarding independent claim 1 (independent claims 11, 25, 31, and 37 recite similar relevant limitations), the applicant argues Burkhardt does not teach a VOD services system and that he teaches "push" content system. The examiner respectfully disagrees. Burkhardt teaches a system where users make content request (elections) reported (via communication links 42, 54, 65 - fig. 1) to the content origination system/content server 200 for providing on-demand access to content [par. 24] via satellite system 300 and/or the Internet 400 (par. 23, lines 1-7). Therefore it is clearly not a "push" system because users make request and receive content on-demand. Furthermore Burkhardt teaches VOD because he teaches user's receive content on demand as discussed above and he teaches video channel transmission, e.g., DVB, MPEG (par. 27, lines 2; par. 30, line 5; par. 32, lines 28-30). Burkhardt clearly teaches a VOD system. The applicant's arguments are not persuasive.

The applicant also argues Burkhardt does not teach a plurality of incompatible VOD systems and there is no indication of on-demand access via a second and/or incompatible system. The examiner respectfully disagrees because Burkhardt teaches multiple other traditional satellite downlink systems/networks, i.e., satellite content provider systems not constructed on the principals of the system in fig. 1, that are independent of one another, i.e., multiple VOD systems, (interpreted by the examiner to mean they are incompatible because they stand alone and are based on different fundamental structures than the system of fig. 1; par. 34) and that because of these differences/incompatibilities they have to be transitioned (i.e., migrated or adapted) into the interlinked system of fig. 1 (par. 26, lines 1-7). The applicant's arguments are not persuasive.

The applicant additionally argues Burkhardt does not teach transmitting to each of the plurality of incompatible VOD systems a respective compatible request for a list of available VOD assets because there is no issue of compatibility (the examiner disagrees with this assertions as discussed above) and because the content providers of Burkhardt's system choose/elect to participate or not in their submission of content to the VOD system of fig. 1. The examiner respectfully disagrees. Burkhardt teaches that content is admitted to the system by election from the content providers but this election is in response to a submission template (request) from the administrators of the VOD system 200/100 specifying the type of content that is admissible (i.e., that they request) and specifying the availability of the system to accept it (i.e., via the template a request is made for specific and preferred content types and times/instances that the system will accept the content) (par. 22, lines 4-8; par. 23, lines 7-9; par. 30, lines 1-3, 6-8, 12-13, 17-18; par. 32, lines 6-14; par. 37, lines, 23-24). The request is a compatible request in order for the system to communicate with the various stand alone and/or proprietary providers. The applicant's arguments are not persuasive.

The applicant additionally argues Burkhardt fails to teach receiving from each VOD system a list of respective available VOD assets because there is only one system. The examiner disagrees with this assertion as discussed above the multiple aggregated systems submit list/templates of content available/submitted to the aggregation system. The applicant's arguments are not persuasive..